IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 260 of 1993

For Approval and Signature:

THE *HON'BLE* MISS JUSTICE R.M.DOSHIT

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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DEVSHANKAR M RAVAL - Petitioner(s)

Versus

MEMON HAJI ABDUL SATTAR JAJEI - Respondent(s)

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Appearance :

MR RN SHAH for Petitioner

MR AJ PATEL for Respondent No(s).: 1.

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CORAM :THE HON'BLE MISS JUSTICE R.M.DOSHIT

Date : 15/06/2005

ORAL JUDGMENT

Feeling aggrieved by the judgment and order dated 12th August, 1992 passed by the learned Extra-Assistant Judge, Sabarkantha at Himatnagar in Civil Appeal No. 37 of 1992, the appellant-defendant in Civil Suit No. 160 of 1982 has preferred the present Revision Application under

Section 29 (2) of the Bombay Rents, Hotel &Lodging House Rates Control Act, 1947 [hereinafter referred to as, "**the Rent Act**"].

The respondent-plaintiff is the owner of the suit premises, a shop situated at Khedbrahma. The suit shop was leased to the petitioner-defendant for a monthly rent of Rs.40/=. The plaintiff instituted Regular Civil Suit No. 160 of 1982 in the Court of learned Civil Judge [JD], Idar for recovery of possession of the suit premises on the ground that the defendant was tenant in default. The tenant had failed to pay the rent since 1st October, 1980; that the rent was payable by month. The notice of demand as envisaged under Section 12 (2) of the Rent Act was given on 16 thSeptember, 1982 [Exh. 18]. Within one month from the date of the receipt of the notice, the defendant failed to pay the amount of arrears of rent.

The learned Civil Judge has, by judgment and order dated 30thDecember, 1991, held that the defendant was the tenant in arrears of rent for more than six months; that the rent was payable by month; that the tenant failed to pay the amount of arrears of rent within one month from the date of receipt of the suit notice. The learned Civil Judge was, therefore, pleased to pass decree for eviction and the arrears of rent due. Feeling aggrieved, the defendant preferred Civil Appeal No. 37 of 1992 in the Court of learned District Judge, Sabarkantha. The Appeal was heard by the learned Extra-Assistant Judge, Himatnagar. The lower appellate Court confirmed the finding that the defendant was in arrears of rent and was liable for eviction as envisaged by Section 12 (3)(a) of the Rent Act. Therefore, the present Revision Application.

In view of the above referred concurrent finding recorded by both the Courts below, no interference is warranted. The Revision Application is dismissed with cost. Rule is discharged.

{Miss R.M Doshit, J}

*Prakash**